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April 20, 2000

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VIA COURIER

Magalie Roman Salas, Esquire  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Ms. Salas:

On behalf of WLEX Communications, L.L.C., licensee of WLEX-TV, Lexington, Kentucky, there are transmitted herewith an original and five copies of its *Petition for Rule Making* proposing the substitution of channel 39 for channel 22 as the station's paired DTV allocation.

If any additional information is needed in connection with this matter, please contact me.

Respectfully submitted,



Scott S. Patrick

Enclosure

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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

**RECEIVED**  
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In the Matter of	)	
	)	
Amendment of Section 73.622(b)	)	MM Docket No. _____
Table of Allotments,	)	RM- _____
Digital Television Broadcast Stations	)	
(Lexington, Kentucky)	)	
	)	

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**PETITION FOR RULE MAKING**  
**TO AMEND THE DTV TABLE OF ALLOTMENTS**

WLEX Communications, L.L.C. ("WLEX"), licensee of WLEX-TV, Lexington, Kentucky, by its attorneys and pursuant to Sections 1.401 and 73.622(a) of the Commission's Rules (47 C.F.R. §§1.401 and 73.622(a)), hereby respectfully petitions the Commission to institute a rulemaking to amend Section 73.622(b), the DTV Table of Allotments, by substituting channel 39 as the station's paired DTV allocation for the transition period in lieu of channel 22, as originally allotted. Specifically, the DTV Table of Allotments would be amended as follows:

	<b><u>Present</u></b>	<b><u>Proposed</u></b>
Lexington, KY	<b><u>22</u></b> , 40, *42, 59	<b><u>39</u></b> , 40, *42, 59

Issuance of a Notice of Proposed Rule Making would be consistent with the Commission's rules and policies that are designed to assist smaller market stations in recognition of the special burden that the implementation of digital television places on them – the most

prominent being the staggered DTV construction schedule.<sup>1</sup> Recognizing the intricacies of DTV operations and the need for stations to maximize service efficiently, the Commission also has promised to provide broadcasters with flexibility in developing alternate allotment proposals.<sup>2</sup>

WLEX-TV serves the Lexington, Kentucky DMA, ranked 66th in the United States.<sup>3</sup> As set forth in greater detail in the attached Engineering Statement, the proposed channel substitution would permit WLEX to reduce the impact of DTV build-out and operating costs by expanding service to new viewers and operate more efficiently. Thus, the public interest would be served through enhanced service and more efficient use of the broadcast spectrum.

As demonstrated in the Engineering Statement, WLEX-DT's proposed service area encompasses the community of license as required,<sup>4</sup> and the proposed allotment parameters conform with the Commission's *de minimis* interference standard.<sup>5</sup>

Accordingly, for the reasons set forth above, WLEX respectfully requests that the Commission initiate a rule making proceeding to amend Section 73.622(b) of its Rules to substitute channel 39 for channel 22 for use by WLEX-DT in Lexington, Kentucky at a new site. The amendment would serve the public interest because the proposed change would enable

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<sup>1</sup> Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Fifth Report and Order*, MM Docket 87-268, 12 FCC Rcd 12809, ¶78 (1997).

<sup>2</sup> Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Sixth Report and Order*, MM Docket 87-268, 12 FCC Rcd 14588, ¶172 (1997).

<sup>3</sup> Broadcasting & Cable Yearbook 2000, B-200 (2000).

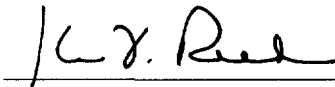
<sup>4</sup> 47 C.F.R. §73.623(c)(1).

<sup>5</sup> 47 C.F.R. §73.623(c)(2).

WLEX-DT to provide better coverage to a greater service area and would result in a more efficient use of the broadcast spectrum.

Respectfully submitted,

WLEX COMMUNICATIONS, L.L.C.

By:   
Kevin F. Reed  
Scott S. Patrick

Its Attorneys

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1200 New Hampshire Avenue, N.W.  
Suite 800  
Washington, D.C. 20036-6802  
(202) 776-2000

April 20, 2000

## **ATTACHMENT**

### **Engineering Statement**

ENGINEERING STATEMENT  
PETITION FOR RULE MAKING  
SECTION 73.622 OF THE FCC RULES  
TO CHANGE DTV CHANNEL  
ON BEHALF OF  
WLEX-TV COMMUNICATIONS, LLC  
WLEX-DT, LEXINGTON, KENTUCKY

APRIL 2000

COHEN, DIPPELL AND EVERIST, P.C.  
CONSULTING ENGINEERS  
RADIO AND TELEVISION  
WASHINGTON, D.C.

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington            )  
  ) ss  
District of Columbia         )

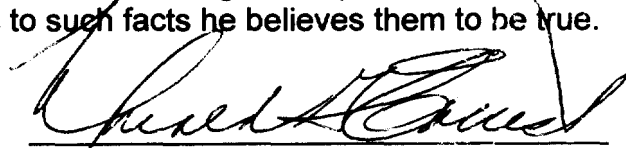
Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

That his qualifications are a matter of record in the Federal Communications Commission;

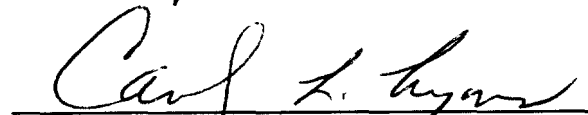
That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.



Donald G. Everist  
District of Columbia  
Professional Engineer  
Registration No. 5714

Subscribed and sworn to before me this 10<sup>th</sup> day of April, 2000.

  
Notary Public

My Commission Expires: 2/28/2003

This engineering statement has been prepared on behalf of WLEX-TV Communications, LLC licensee of Television Station WLEX-TV, Lexington, Kentucky. WLEX-TV is assigned NTSC Channel 18. It is proposed to change the current digital television channel allotment contained in Section 73.622 of the FCC Rules from UHF Channel 22 to UHF Channel 39 at the maximum UHF-DT non-directional power of 800 kW. The resulting service area encompasses the entire community of license. In addition, a different site is specified.

This request is supported by an analysis of the impact of this proposal on other authorized NTSC stations, DTV stations, and other proposed DTV allotment changes. This analysis has been performed using the Federal Communications Commission OET Bulletin 69 dated July 2, 1997 and the FCC supplemental processing guidelines dated August 1998. The analysis was performed by using the FCC Longley-Rice model adapted for use for an INTEL computer. The results of this adapted program has been compared to other known FCC studies and have been found to give comparable results. The FCC data base dated December 30, 1999 has been used.

<u>DTV Channel</u>	<u>Effective Radiated Power</u> (kW)	<u>Height Above Average Terrain</u> (meters)
<u>Existing DTV Table of Allotments, Page B<sup>1</sup></u>		
22	50 kW N 38° 03' 56", W 84° 29' 13"L NAD-27	195
<u>Proposed DTV Facilities</u>		
39	800 kW N 38° 02' 03", W 84° 23' 39" L	288

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<sup>1</sup>In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, MM Docket No. 87-268, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order (FCC 98-24), 2/12/98.



As shown in Table I, modifying the DTV allotment for WLEX-DT would not result in additional interference in excess of that permitted by the FCC's Rules.

Further, an examination of co-channel low power television and translator stations within 50 km has been performed. No other low power or translator station is found. Therefore, it is believed that the request for DTV channel will be consistent with the FCC Rules.

COHEN, DIPPELL AND EVERIST, P. C.

TABLE 1  
INTERFERENCE SUMMARY  
WLEX-DT, CHANNEL 39, LEXINGTON, KENTUCKY  
MARCH 2000

Baseline WLEX-DT: Allotment, Channel 22, 50 kW, 195 meters HAAT, N38°03'56", W84°29'13"  
(NAD-27)

Proposed Change: Channel 39, 800 kW, C/R 598 meters AMSL, N38°02'03", W84°23'39"  
(NAD-27)

<u>Affected Station</u>	<u>Appendix B<sup>1</sup></u>	<u>Distance/Bearing</u>	<u>New Interference % of Population Served</u>
WKMR-TV, CH.38, Morehead, KY Lic., 676 kW, 305 meters HAAT	0.4% interference	88.2 km/79.3°	1.8%
WEMT-TV, CH.39, Greeneville, TN Lic., 3020 kW, 802 meters HAAT	1.0% interference	268.5 km/145.8°	<0.5%
WHTN-TV, CH.39, Murfreesboro, TN Lic., 5000 kW, 250 meters HAAT	2.5% interference	282.5 km/220.4°	<0.5%
<u>Affected DTV Stations:</u>			
WKMJ-DT, CH.38, Louisville, KY Allot., 50 kW*, 249 meters HAAT	99.5% area match	131.2 km/286.9°	<0.3%
WLPX-DT, CH.39, Charleston, WV App., 1000 kW, 350 meters HAAT	N/A	234.2 km/77.2°	1.5%
WKOI-DT, CH.39, Richmond, IN App., 500 kW, 281 meters HAAT	N/A	165.4 km/352.8°	0.7%
WBAK-DT, CH.39, Terre Haute, IN Allot., 56.8 Kw*, 299 meters HAAT	100.0% area match	293.4 km/298.0°	<0.6%

\*Studied at 200 kW

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<sup>1</sup>See Appendix B, Table of Allotments, Page B-24.

